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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/524,598	02/14/2005	Tatsuo Itabashi	3712174.00425	8820
29175 K&L Gates LLP P. O. BOX 1135 CHICAGO, IL 60690	7590 08/05/2010			
EXAMINER HARPER, ELIYAH STONE				
ART UNIT 2166		PAPER NUMBER		
NOTIFICATION DATE 08/05/2010		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

chicago.patents@klgates.com

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/524,598

Applicant(s)

ITABASHI ET AL.

Examiner

ELIYAH S. HARPER

Art Unit

2166

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 08 July 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 26-50 and 54.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See continuation sheet.
12. ☒ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s): 7/8/2010
13. ☐ Other: _____.

/ELIYAH S HARPER/
Examiner, Art Unit 2166

continuation of #1 In response to applicant's argument that as best understood by the Applicant, it appears that the Office Action interprets: (a) Hendrey's mobile unit ("MU") as the mobile information processor of Claim 26; (b) Hendrey's Mobile Positioning Center ("MPC") as the remote user information database of Claim 26; (c) Hendrey's users that are provided by the service (Hendrey, ¶ 62) as the identification information of Claim 26; and (d) Hendrey's location data for the mobile units as the user information of Claim 26. Under this interpretation, Applicant submits Hendrey's MU does not acquire the location data for the mobile units (interpreted as the user information) from Hendrey's MPC based on the users that are provided by the service (interpreted as the identification information). Rather, Hendrey merely discloses Hendrey's MPC "obtains the location data for the MUs and publishes this data to other machines." (Hendrey, ¶ 92). That is, the mobile information processor of Hendrey does not disclose a memory device which stores instructions, which when executed by the processor, cause the processor to: (a) search, in a local area, for an external apparatus which can communicate with the mobile information processor, said external apparatus including identification information; (b) collect said identification information from said external apparatus; (c) acquire user information from a remote user information database based on said collected identification information. On the other hand, the information processor of Claim 26 includes, among other elements, "a memory device which stores instructions, which when executed by the processor, cause the processor to: (a) search, in a local area, for an external apparatus which can communicate with the mobile information processor, said external apparatus including identification information; (b) collect said identification information from said external apparatus; (c) acquire user information from a remote user information database based on said collected identification information." For at least these reasons, it is respectfully submitted that independent Claim 26 is patently distinguished over Hendrey and in condition for allowance. Dependent Claims 27 and 54 depend directly from amended independent Claim 26 and are also allowable for the reasons given with respect to Claim 26 and because of the additional features recited in these claims.

Examiner responds that the Examiner is entitled to give claim limitations their broadest reasonable interpretation in light of the specification. Interpretation of Claims-Broadest Reasonable Interpretation: During patent examination, the pending claims must be 'given the broadest reasonable interpretation consistent with the specification.' Applicant always has the opportunity to amend the claims during prosecution and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. In re Prater, 162 USPQ 541,550-51 (CCPA 1969). In this case the claim limitation (a) search, in a local area, for an external apparatus which can communicate with the mobile information processor, said external apparatus including identification information; This limitation simply means searching for a device or apparatus (other than the device doing the search hence external) wherein there is some way to identify that apparatus, as disclosed and paragraph 0062 and applicant admits the instant reference discloses MU to MU and MU to SU services and by definition a MU to MU or MU to SU service means there are two apparatuses each external with respect to the other. Paragraph 0062 also further goes on to disclose that user search for those external apparatuses with respect to limitation (b) collect said identification information from said external apparatus; This limitation only requires that the apparatus in question be able to identify the external apparatus. Paragraph 0062 clearly discloses that the apparatus search and find location of other apparatuses and moreover location data specifically can be maintained. The maintenance of location data is in itself identifying information because that is how the MU to MU or MU to SU communications occur. With respect to limitation (c) The acquire user information from a remote user information database based on said collected identification information. From the information collected the Mobile users are grouped into clouds, this means the location information is used to identify user within a certain distance and further Paragraph 0098 discloses that each MU has a unique object identifier.

In response to applicant's argument that As described above, the Hendrey does not disclose "a memory device which stores instructions, which when executed by the processor, cause the processor to: (a) search, in a local area, for an external apparatus which can communicate with the mobile information processor, said external apparatus including identification information; (b) collect said identification information from said external apparatus; (c) acquire user information from a remote user information database based on said collected identification information." Yeager does not cure this deficiency of Hendrey. Accordingly, unlike Claim 28, the combination of Hendrey and Yeager does not render obvious "a memory device which stores instructions, which when executed by the processor, cause the processor to: (a) search, in a local area, for an external apparatus which can communicate with the mobile information processor, said external apparatus including identification information; (b) collect said identification information from said external apparatus; (c) acquire user information from a remote user information database based on said collected identification information." For at least this reason, it is respectfully submitted that Claim 28 is patently distinguished over Hendrey and Yeager and in condition for allowance. Claims 29, 36, 37, 42, 43, 49 and 50 each include similar elements to Claim 28. For reasons similar to those discussed above with respect to independent Claim 28, Claims 29, 36, 37, 42, 43, 49 and 50 are each patently distinguished over Hendrey and Yeager and in condition for allowance. Examiner responds that the Examiner is entitled to give claim limitations their broadest reasonable interpretation in light of the specification. Interpretation of Claims-Broadest Reasonable Interpretation: During patent examination, the pending claims must be 'given the broadest reasonable interpretation consistent with the specification.' Applicant always has the opportunity to amend the claims during prosecution and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. In re Prater, 162 USPQ 541,550-51 (CCPA 1969). In this case the claim limitation (a) search, in a local area, for an external apparatus which can communicate with the mobile information processor, said external apparatus including identification information; This limitation simply means searching for a device or apparatus (other than the device doing the search hence external) wherein there is some way to identify that apparatus, as disclosed and paragraph 0062 and applicant admits the instant reference discloses MU to MU and MU to SU services and by definition a MU to MU or MU to SU service means there are two apparatuses each external with respect to the other. Paragraph 0062 also further goes on to disclose that user search for those external apparatuses with respect to limitation (b) collect said identification information from said external apparatus; This limitation only requires that the apparatus in question be able to identify the external apparatus. Paragraph 0062 clearly discloses that the apparatus search and find location of other apparatuses and moreover location data specifically can be maintained. The maintenance of location data is in itself identifying information because that is how the MU to MU or MU to SU communications occur. With respect to limitation (c) The acquire user information from a remote user information database based on said collected identification information. From the information collected the Mobile users are grouped into clouds, this means the location information is used to identify user within a certain distance and further Paragraph 0098 discloses that each MU has a unique object identifier.